MONTANA LEGISLATIVE HISTORY

Chapter 386 1977

Bill H 402 S _____ Original bill & history ✓C

H. Committee on Taxation			S. Committee on Taxation		
Hearing Date(s) h 1/31		C	Hearing Date(s) h 3/29		C
v 1/31		C	v 3/29		C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

H BILL NO. 402

INTRODUCED BY Menahan

BY REQUEST OF THE DEPARTMENT OF LABOR

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR COLLECTION OF DELINQUENT TAXES OWED BY CORPORATIONS DELINQUENT IN FILING THEIR ANNUAL CORPORATE REPORT; AMENDING SECTION 87-136, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 87-136, R.C.M. 1947, is amended to read as follows:

"87-136. Collection -- reciprocity with other states in effecting collection of unpaid unemployment compensation taxes. (1) If, after due notice, any employer defaults in any payment of contributions or interest thereon, the amount due shall be collected by civil action in the name of the division, Montana department of labor and industry, and the employer adjudged in default shall pay the costs of such action. Civil actions brought under this section to collect contributions or interest thereon from an employer shall be heard by the court at the earliest possible date and shall be entitled to preference upon the calendar of the court over all other civil actions except petitions for judicial review under this act and cases arising under the ~~workmen's~~ workers' compensation law of this state. Action for the collection of contributions due shall be brought within ~~five~~ (5) years after the due date of such contributions, otherwise to be barred as provided in ~~section~~ 93-2604.

(2) The courts of this state shall recognize and enforce liabilities for unemployment contributions imposed by other states which extend a like comity to this state. The division, Montana department of labor and industry, is hereby empowered to sue in the courts of any other jurisdiction which extends such comity, to collect unemployment contributions and interest due this state. The officials of other states which by statute or otherwise extend a like comity to this state may sue in the courts of this state, to collect for such contributions and interest and penalties, if any, due such state; in any such case the administrator may through his attorney or attorneys institute and conduct such suit for such other state. Venue of such proceedings shall be the same as for actions to collect delinquent contributions, penalties and interest due under this act. A certificate by the secretary of any such state under the great seal of such state attesting the authority of such official or officials to collect unemployment compensation contributions, penalties and interest shall be conclusive evidence of such authority.

(3) Any contractor, who is or becomes an employer

LC 0732/01

under the provisions of this act, who contracts with any subcontractor, who also is or becomes an employer under the provisions of this act, shall withhold sufficient money on the contract to guarantee that all contributions, penalties, and interest are paid upon completion of the contract. It shall be the duty of any subcontractor who is or becomes an employer under the provisions of this act, to furnish the contractor with a certification issued by the employment security division, prior to final payment for the particular job, stating that said subcontractor is current and in full compliance with the provisions of this act. Failure to comply with the provisions of this section shall render the contractor directly liable for all contributions, penalties and interest due from the subcontractor on the particular job and the administrator has all of the remedies of collection against the contractor under the provisions of this act as though the services in question were performed directly for the contractor.

(4) When a corporation subject to Montana corporate law has failed to file the annual corporation report with the Montana secretary of state, as required by law, the division may hold the corporate officers jointly and severally liable for any contributions due for the period in which the corporation is delinquent in filing the annual corporation report. If the required annual corporation

report is made and filed after the time specified, the directors may not, on account of prior failure to make report, be held liable for the contributions thereafter accruing."

-End-

14.

TAXATION COMMITTEE

45TH Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 401	To establish a schedule of fixed fees in lieu of ad valorem personal property taxes on certain recreational vehicles.	1/22	Menahan	1/31	DO NOT PASS	1/31
HB 402	Providing for collection of delinquent taxes owed by corporations delinquent in filing their annual corporate report; amend. 87-136.	1/22	Menahan	1/31	DO PASS	1/31
HB 412	Reclassify raw materials of non-renewable natural resources & work in progress from class 7 to class 4 for taxation purposes; amend 84-301.	1/24	Meloy	2/1	AND AS SO AMENDED DO PASS	2/4
HB 415	To exempt from tax buildings on airport lands owned by a public airport authority & leased to private interests; amend 84-207.	1/24	Lynch	1/28	DO PASS	1/28
HB 422	To incorporate federal changes of subchapter S corporations contained in tax reform act of 1976; amend 84-1501.1 & 84-1501.2	1/24	Ramirez	2/1	AS SO AMENDED, DO PASS	2/2
HB 434	To include sprinkler irrigation systems in class 7 for 3 years after their purchase; amend 84-301.	1/24	Williams	2/1	AS AMENDED DO PASS	2/23

TAXATION COMMITTEE
45TH LEGISLATURE

Chairman Herb Huennekens called the Taxation Committee to order in room #434 January 31, 1977, at 8:00 a.m. All members of the committee were present. Bills to be heard were House Bills 383, 386, 389, 401, 402.

HOUSE BILL 401

Rep. William Menahan, District #90, Deer Lodge County, sponsor of HB 401, presented this bill because he feels people are being overtaxed because of lack of time for use of snowmobiles. There is a question as to whether 5th wheelers are included under this bill. Taxes are to be figured on the age of the vehicle. He wants the present tax lowered so people will buy their license plates in Montana instead of where they spend their winters where taxes are cheaper. SB 193 is similar.

HB 401 repeals the property tax on snowmobiles, camping trailers, campers, and motor homes and imposes a fixed fee on these recreational vehicles based on their age. The county treasurer would apportion the fees to the taxing jurisdictions in the same proportions that a property tax would be.

Lloyd Anderson, Treasure State Wheelers, Helena, supports HB 401. He is a member of the first chapter in the state of Montana of the Good Sam Club. Fifth wheelers should be defined. HB 401 should include mini-motor homes. After a couple of years old, the top rate could be dropped a little bit and give them a little break on the lower end. People can't afford the tax in Montana, so they leave their trailer elsewhere. Montana will lose out on trailer tax and income tax also. See testimony attached.

Don Ingersoll, Helena, thinks HB 401 should be amended to include travel trailers and 5th wheelers and mini-motor homes, and that there should be a more realistic fee schedule for the first year's tax. See his testimony.

Mrs. Margaret Anderson, East Helena, is in support of HB 401 if it is amended. See her testimony.

Al and Dorothy Warnke, Helena, support an amended HB 401. See their testimony.

Harriet and John F. Van Vynck, Clancy, MT, support HB 401 if amended. See their recommendations on their witness statements.

OPPONENTS:

Steve Turkiewicz, MACo, opposes HB 401, because the counties need the money from these taxes. He doesn't feel this is the approach to take and wants to look at the entire system.

Ray White, Montana County Assessors Association, Bozeman, opposes HB 401, stating that this is evidence of a deteriorating tax base. He doesn't feel the problem is with the ad valorem tax. Before the DOR, there was a system of taxing motor homes, but the DOR has regulations, which he doesn't fully go along with, that puts a higher valuation on them. He feels the problem is with the rules and

regulations not the method of taxation. This bill would place the same fee on all of them. It would allow vacation homes, etc., to come under this in time and that wouldn't be fair because it would be the same on expensive motor homes. His motor vehicle people are filing suits now.

Rep. John Scully, District #76, Gallatin County, sponsor of HB 389, asked the committee to hold this bill until further consideration can be given to it.

HOUSE BILL 389

HB 389 imposes a tax of .25% on the gross receipts of all passenger tramways. This tax would be collected by the department of revenue and used by the department of administration for its passenger tramway safety program. This bill has an immediate effective date. Rep. Scully asks that this bill be killed. The tax would be a penny per ski-lift ticket which would provide the funds necessary to inspect the Gondola at Big Sky.

Rep. William Menahan, sponsor of HB 402, explained this bill is for the purpose of collecting taxes from delinquent corporations. HB 402 provides that the corporate officers of any corporation that fails to file its annual corporation report are liable for any unemployment compensation taxes due for the period in which the report was delinquent. After the report is filed, the directors may not be held liable for any taxes accruing after that date.

HOUSE BILL 402

Fred Barrett, Administrator of the Employment Security Division, said in order to tighten up the overall administration of corporations filing reports, it will be necessary to go to individuals in a corporation to help collect delinquent unemployment taxes. See the reproduced newspaper item.

Harold V. Kansier, Employment Security Division, is asking for legislation to protect the trust fund. ESD is not able to force filing of these annual reports and there is an increased number of corporations owing the agency. In one instance, one man was the only stockholder in three different corporations which now owe in excess of $10,000. There are a number of corporations like this. The corporation holds no assets - all of the trucks were owned by the individual and leased to the corporation. ESD as a creditor, is aware of the corporations' problems. He recommends ESD be able to cancel their insurance although they do not want to do that.

Ernest Post, Montana State AFL-CIO staff representative supports HB 402. This act would apply to other taxes. It would go into 87-136 part of the Unemployment Compensation law. Corporations owe their taxes and this would bring the unemployment trust fund in over $60,000. There is now $250,000 outstanding owed to the Division and approximately 40% is owed by such corporations. He feels it is time the laws are tightened up on these corporations.

Tom Winsor, Montana Chamber of Commerce, Helena, feels that this should not be an unfair tax and they are not opposed to the penalties and laws proposed. See his testimony.

Mr. Kansier further stated that of the $237,000 owed, $97,000 is owed by corporations. They can pressure collections on individuals, but if corporations go out

of business, since they are just a shield, this tax cannot be collected. This law was on the books in 1967, and when corporation laws were revised, a standard corporation law was incorporated. There was a penalty in the old provision which benefitted the creditor and sustained the secretary of state in obtaining annual reports.

Questions from the committee brought out that if information showed that the corporation was mismanaged by the officers, the officers were liable and could be sued by the defunct corporations. The question of whether the unemployment taxes payments were covered under a contractor's bond arose.

Rep. Fabrega said until they file bankruptcy, you can collect from an individual. If officers fail to file the annual report, then they become personally liable. Mr. Kansier said they cannot continue to pursue corporations after bankruptcy, but can still continue to pursue their debts.

Workmens Compensation collected $13 million a year on the average. They prosecute 200-300 persons a year for having drawn claims fraudently in the amount of $35,000. They are talking about twice that much money from corporations.

Rep. Jack Uhde, District #17, Flathead County, sponsor of HB 383, said this is an act to exempt all teacher retirement benefits earned in any state from Montana income taxes. This would reduce revenue from income tax $325,000 to $500,000 per year. An effective date of 1977 was proposed.

HOUSE BILL 383

The question arose of why just approach teachers on this exemption and not all other retirement incomes. The question of reciprocity arose. Rep. Lien mentioned Montana teachers are allowed $3,600 tax free now by a contractual deal with the state.

HOUSE BILL 386, sponsored by Rep. Art Lund, will be considered at a later date.

The committee recessed to an executive session.

HB 389 - Rep. Fabrega moved that HB 389 DO NOT PASS. Rep. Fagg made a substitute motion that the committee get more information before deciding on this bill. This motion was accepted unanimously.

HJR 4 - Rep. Lien moved that HJR 4 DO PASS. Rep. Dassinger moved that subsection (2), lines 11 through 17 be deleted. This motion was approved unanimously. The original motion by Rep. Lien was changed to AS AMENDED DO PASS, and this motion carried with Rep. Williams voting No; Rep. Vincent was absent.

HOUSE BILL 402 - Rep. Fabrega moved that HB 402 DO PASS. Unanimously approved.

HOUSE BILL 401. Rep. Dassinger moved to recommend that HB 401 DO NOT PASS. Motion carried with Reps. Lien, Severson, Waldron voting No - 14-3 vote.

HOUSE BILL 218 - Rep. Waldron had moved that HB 218 be reconsidered. This motion now failed 5-12. Since it was not reconsidered, the motion of DO NOT PASS stands.

45th LEGISLATIVE SESSION

COMMITTEE ON TAXATION

HOUSE LL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO NOT DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
362	2/21	3/11	3/11				3/11		
379	2/10	3/9	3/9					3/9	
389	2/19	3/29	3/29					3/29	
402 1	2/8	3/29	3/29					3/29	
412	2/18	3/10 3/16	3/16						3/16
415	2/4	3/22	3/22					3/22	
422	2/10	3/17	3/17 4/1				3/17	4/1	
434	3/10	3/21 4/12	4/12					4/12	
482	4/5	4/12	4/12	TABLED					
489	2/14	3/25	3/30						3/30
516	3/3	3/16	3/16					3/16	
518	2/17	3/14	3/14				3/14		
527	2/24	3/30	3/30					3/30	
531	4/6	4/12	4/12						4/12
540	2/14	3/15	3/15				3/15		
551	2/10	3/10	3/17					3/17	

Use Separate Sheet for Senate, House Bills, and Resolutions)

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

March 29, 1977

The fifty-seventh meeting of the Taxation Committee was called to order on the above date in Room 415 of the State Capitol Building by Chairman Mathers at 8:10 a.m.

ROLL CALL: Roll call found all members present.

The following witnesses were present:

Joe A. Renders	Mont. Farmers Union
Jack C. Crosser	Dept. of Admin.
Ernest Post	Mont. State AFL-CIO
Jim Mockler	Mont. Coal Council
Fred Barrett	Employ. Sec. Division
Jerry Gonroth	Northern Ski Area
Harold Dover	Self

CONSIDERATION OF HOUSE BILL 389: Mr. Crosser introduced this bill and said the state has a law on the books which provides the state shall insure all passenger tramways or ski lifts shall be maintained in a safe condition through inspections. Such provisions provided only about $2,000 or $2,500 per year and he said this amount is not adequate to provide such inspections. If this legislation were passed it would generate about $15,000 per year and enable the Department to engage an engineer, on contract, to inspect the equipment, etc., for safety. He said several managers of ski resorts had appeared in support of the bill in the House as they feel this is the best way to accomplish this.

The Chairman asked for further proponents or opponents and there being none, permitted questions by the committee. Sen. Norman asked if there would be objection to amending the bill so the money would go into the General Fund and then be appropriated from there. Mr. Crosser said he would prefer this method. Sen. Roskie asked how the inspections had been paid for before and he was informed the lift operators had paid for the inspections. Mr. Hauck answered some questions from the committee and told them there would be no fulltime employees employed to accomplish these inspections; they are to be done by contract. Sen. Healy asked about the certified engineers, as specified in the bill. Mr. Hauck replied they are civil engineers with some experience in such inspections. Mr. Gonroth was a proponent of the bill also, as amended.

Sen. Norman Moved the Amendments to HB389, see committee report attached. His motion was carried unanimously.

DISPOSITION: Sen. Turnage Moved HB389 As Amended, Be Concurred In. The motion was carried unanimously.

CONSIDERATION OF HOUSE BILL 402: Mr. Barrett spoke on this bill in the absence of the sponsor, Rep. Menehan. He said the bill had been introduced at the request of the Employment Security Commission. The bill would make the officers of a corporation liable for delinquent contributions to the unemployment compensation trust fund when filing the annual report of the corporation to the state. He said that because of corporations going defunct, they had lost about $60,000 in delinquent contributions with no way to attach wages or collect these contributions. He thought this law would help the ESC collect such contributions. Other employers in the state have to make up the contributions. Mr. Kansier said prior to 1967 the law permitted the Department to pursue the individual. He said in many instances they find employers will dispose of the corporation shell and move on to another corporation. The total tax involved was over $100,000 which they had no way of collecting.

Mr. Post spoke also as a proponent saying there was much talk about a deficit in unemployment compensation funds and this bill would help the ESC collect from the corporations. It is not just the employees who were depleting this fund, but also the employers, and he felt this legislation would address itself to the collecting of delinquent payments. He said there are approximately 3,100 corporations on the books that exist only on paper and possibly some of these 3,100 corporations might owe the state money, with the state having no way of collecting such taxes. He felt reliable corporations would also appreciate this legislation.

Following presentations by the witnesses the committee asked a number of questions of Mr. Barrett and Mr. Kansier. The committee debated about making corporative officers liable and it was decided to amend the bill to include only 'officers' as they specified. It was pointed out that if the officers are reliable and the annual report is filed, there is no liability to them, thus the legislation should encourage more efficient corporate report filing with the office of the Secretary of State. If however, the report is not filed, the ESC then has law to support them in their pursuit of the officers who would become liable for delinquent contributions.

Sen. Turnage moved to amend HB402, to strike "corporate officers" and insert "president, vice president, secretary and treasurer" and also to strike the work "directors" and insert "such officers." His motion was carried unanimously.

DISPOSITION: Sen. Turnage then Moved HB402 As Amended, Be Concurred In. The motion was carried. Note for the record that Sen. Towe voted "No."

CONSIDERATION OF SENATE JOINT RESOLUTION 44: Sen. Towe introduced his bill which authorized a study on investment of some of the coal trust moneys in Montana. He said this resolution is aimed at helping young people get started in agriculture in particular. He had several amendments to suggest to his bill, and after a brief mention of these, continued his presentation, say-

ing he had seen the results of large corporate farming practices in the eastern part of the state and noted their methods appeared to be aimed at quick profit with little regard for the future of the land, whereas the family farm manager is more concerned about safeguarding the land for the future. He therefore observes better conservation practices and is protective of the land for his own family's future. Sen. Towe continued, stating this should be encouraged by loaning money to young people in order that they could get a start in farming, thus keeping the coal trust money in Montana, with the idea of caring for the state's land and its future production. He thought by making these moneys available through bank loans, etc., a number of things might be accomplished: 1 - promotion of industries and jobs in the state; 2 - would allow investment in Montana real estate loans; 3 - young people interested in agriculture would be given a start; and 4 - would revitalize the family farms.

Sen. Watt spoke also as a proponent of the bill saying he thought it good to give young people assistance in getting started in the farming business. Sen. Goodover said he thought it a commendable goal, but asked why they couldn't also buy a parcel of land and start a business, rather than limit the goal to farming only. Mr. Renders also spoke as a proponent and distributed Exh. #1, containing his testimony.

Opponents of the bill included Mr. Mockler who said as a representative of the coal industry they had a vested interest in the funds and didn't see any reason why farms in particular should be singled out for the assistance, whereas many people might be interested in starting a business with a loan obtainable at a low interest rate. Further, he felt that farming was a high risk business and thought the Legislature should take a better look at the resolution. Sen. Dover also spoke as an opponent and distributed his testimony in Exh. #2, attached. He said FHA does make loans to people interested in farming and did not believe the state's taxpayer money should be loaned on such high-risk loans.

Following the opponents' presentations, Sen. Towe made a brief closing statement.

Due to pressure of time the Chairman closed the hearing on SJR 44 in order that the committee could further discuss HB70 which had been amended by the committee. These amendments were distributed, see Exh. #3, and discussed at length.

Following the discussion Sen. Norman Moved to Adopt the Amendments to HB70, as on Exh. #3. The motion carried unanimously.

DISPOSITION: Sen. Turnage then Moved HB70 As Amended Be Concurred In. His motion carried unanimously.

They briefly discussed the reappraisal program which they believed could be amended into HB215 which is also still in committee. Following this, the meeting adjourned.

ROLL CALL

SENATE TAXATION COMMITTEE

45th LEGISLATIVE SESSION - - 1977 Date 3/29/77

NAME	PRESENT	ABSENT	EXCUSED
SEN. WATT	✓		
SEN. BROWN	✓		
SEN. GOODOVER	✓		
SEN. HEALY	✓		
SEN. MANNING	✓		
SEN. NORMAN	✓		
SEN. ROSKIE	✓		
SEN. TOWE	✓		
SEN. TURNAGE	✓		
CHAIRMAN MATHERS	✓		

SENATE Agriculture COMMITTEE

BILL SJR 44 VISITORS' REGISTER DATE 2-

NAME	REPRESENTING	BILL #	(check one) SUPPORT	OPPOSE
Hoy H. Runduss	Montana Farmers Union	SJR44	←	
Jack C. Claussen	Dept. of Admin.	HB 384	←	
Ernest Post	MT State AFL-CIO	HB 402	X	
Jim MacNaa	Mont. Coal Council	SJR44		-
Ted Barrett	Employ Sec. Division	HB 402	X	
[illegible]	Northern Ag Land Council	HB 384	X	

EXH. #3

HB 70 Amendments

Adopted

Amend page 18, section 9, line 18.
Following: "tools"
Strike: "and implements included in Class 14;"
Insert: ", implements and machinery included in Class 14;"

Amend page 20, section 12, line 17.
Following: "value"
Insert: ", or so much of 12% as is determined under 84-309, whichever is less"

Amend page 22, lines 19 through 21.
Following: line 18
Strike: lines 19 through 21 in their entirety
Insert: "(c) electric transformers and meters and gas regulators and meters that are not part of the single and continuous property of a utility that is centrally assessed; and, electric light and power substation machinery, compressor station machinery, measuring and regulating station equipment, and tools used in the repair and maintenance of the property included in this subsection."

Amend page 24, section 16, line 25.
Following: "value"
Insert: ", or in the case of property classified under (1) (b) of this section, so much of 6% as is determined under 84-309, whichever is less"

To check page 25, lines 7 thru 9, concerning "Mobile machines"

Amend page 30, section 19, line 11.
Following: "value"
Insert: ", or in the case of property classified under (1) (a) of this section, so much of 2.8% as is determined under 84-309, whichever is less"

Amend page 110, section ___ line 5.
Following:
Strike: "1 mill"
Insert: "3 mills"

Amend page 123, section ___ line 17.
Following: line 17
Insert: "Section 71. There is a new R.C.M. section numbered 84-309 that reads as follows:

(4) Each registration shall expire on September 30 of the year following the year of issuance.

(5) Each operator shall cause the registration certificate for each passenger tramway registered to be displayed conspicuously at the terminal where passengers load.

History: En. Sec. 7, Ch. 436, L. 1971; amd. Sec. 2, Ch. 63, L. 1974.

Amendments

The 1974 amendment substituted "department" for "board" throughout the section.

69-6608. Fees. The application for registration, or supplemental application shall be accompanied by such annual fees as the department may fix from year to year, not to exceed the following annual fees: passenger tramways described in section 2 (5) (e) and (f) [69-6602 (5) (e) and (f)], twenty-five dollars ($25) each; (c) and (d), fifty dollars ($50) each; and (b), one hundred dollars ($100) each.

History: En. Sec. 8, Ch. 436, L. 1971; amd. Sec. 2, Ch. 63, L. 1974.

Amendments

The 1974 amendment substituted "department" for "board."

69-6609. Deposit of fees. All fees collected by the department shall be deposited in ~~an earmarked revenue fund (passenger tramway) fund~~ account.

the general fund.

It is the legislature's intent that such fees and assessments generate sufficient for a general fund appropriation for contracted inspection services.

History: En. Sec. 9, Ch. 436, L. 1971; amd. Sec. 2, Ch. 63, L. 1974.

Amendments

The 1974 amendment substituted "department" for "board."

69-6610. Additional powers and duties of department. (1) In addition to all other powers and duties conferred and imposed upon the department by this article, the department shall have and exercise the following powers and duties:

(a) To adopt reasonable rules and regulations relating to passenger safety in the design, construction and operation of passenger tramways, but which shall not relate or pertain to an area served by a passenger tramway. In adopting such rules and regulations the department shall use as a guideline the standards contained in "The American National Standards Institute—Safety Requirements for Aerial Passenger Tramways" A 10-B-77.1—1970, as amended from time to time, or equivalent, and as amended or supplemented from time to time by the department, and shall not be discriminatory in their application to operators of passenger tramways and shall hold hearings and take in all evidence relating to the adoption of these rules and regulations; and the department shall supply to each operator a copy of its rules and regulations and each amendment thereto or revision thereof.

(b) To hold hearings and take evidence in all matters relating to the exercise and performance of the powers and duties vested in the department, subpoena witnesses, administer oaths, and compel the testimony of witnesses and the production of books, papers and records relevant to any inquiry;

(c) To approve, deny, revoke, and renew the registrations provided for in this chapter;

STANDING COMMITTEE REPORT

March 29 19 77

MR. PRESIDENT

We, your committee on TAXATION

having had under consideration HOUSE Bill No. 402

Respectfully report as follows: That HOUSE Bill No. 402

third reading bill, be amended as follows:

1. Amend page 3, section 1, line 22.
Following: "division"
Strike: "may"
Insert: "shall"
Following: "the"
Strike: "corporate officers"
Insert: "president, vice president, secretary and treasurer"

2. Amend page 4, section 1, lines 1 and 2.
Following: "specified,"
Strike: "the directors"
Insert: "such officers"

AND AS SO AMENDED,
BE CONCURRED IN
~~XXXXX~~
~~DOBASE~~

WILLIAM MATHERS Chairman.

STATE PUB. CO.

HOUSE BILL NO. 402

INTRODUCED BY MENAHAN

BY REQUEST OF THE DEPARTMENT OF LABOR

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR COLLECTION OF DELINQUENT TAXES OWED BY CORPORATIONS DELINQUENT IN FILING THEIR ANNUAL CORPORATE REPORT; AMENDING SECTION 87-136, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 87-136, R.C.M. 1947, is amended to read as follows:

"87-136. Collection -- reciprocity with other states in effecting collection of unpaid unemployment compensation taxes. (1) If, after due notice, any employer defaults in any payment of contributions or interest thereon, the amount due shall be collected by civil action in the name of the division, Montana department of labor and industry, and the employer adjudged in default shall pay the costs of such action. Civil actions brought under this section to collect contributions or interest thereon from an employer shall be heard by the court at the earliest possible date and shall be entitled to preference upon the calendar of the court over all other civil actions except petitions for judicial review under this act and cases arising under the ~~workmen's~~ workers' compensation law of this state. Action for the collection of contributions due shall be brought within ~~five~~ (5) years after the due date of such contributions, otherwise to be barred as provided in ~~section~~ 93-2604.

(2) The courts of this state shall recognize and enforce liabilities for unemployment contributions imposed by other states which extend a like comity to this state. The division, Montana department of labor and industry, is hereby empowered to sue in the courts of any other jurisdiction which extends such comity, to collect unemployment contributions and interest due this state. The officials of other states which by statute or otherwise extend a like comity to this state may sue in the courts of this state, to collect for such contributions and interest and penalties, if any, due such state; in any such case the administrator may through his attorney or attorneys institute and conduct such suit for such other state. Venue of such proceedings shall be the same as for actions to collect delinquent contributions, penalties and interest due under this act. A certificate by the secretary of any such state under the great seal of such state attesting the authority of such official or officials to collect unemployment compensation contributions, penalties and interest shall be conclusive evidence of such authority.

(3) Any contractor, who is or becomes an employer

REFERENCE BILL

under the provisions of this act, who contracts with any subcontractor, who also is or becomes an employer under the provisions of this act, shall withhold sufficient money on the contract to guarantee that all contributions, penalties, and interest are paid upon completion of the contract. It shall be the duty of any subcontractor who is or becomes an employer under the provisions of this act, to furnish the contractor with a certification issued by the employment security division, prior to final payment for the particular job, stating that said subcontractor is current and in full compliance with the provisions of this act. Failure to comply with the provisions of this section shall render the contractor directly liable for all contributions, penalties and interest due from the subcontractor on the particular job and the administrator has all of the remedies of collection against the contractor under the provisions of this act as though the services in question were performed directly for the contractor.

(4) When a corporation subject to Montana corporate law has failed to file the annual corporation report with the Montana secretary of state, as required by law, the division ~~may~~ SHALL hold the ~~corporate officers~~ PRESIDENT, VICE PRESIDENT, SECRETARY AND TREASURER jointly and severally liable for any contributions due for the period in which the corporation is delinquent in filing the annual

corporation report. If the required annual corporation report is made and filed after the time specified, ~~the directors~~ SUCH OFFICERS may not, on account of prior failure to make report, be held liable for the contributions thereafter accruing."

-End-